MST

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2583 OF 2007

Smt.Shantabai Shankar Shinde,
since deceased through her LRs Petitioners

versus

Pandurang Ganpat Gaikwad Respondent

Mr.Amit Borkar for petitioners.
Mr.P.D.Dalvi for respondent.

CORAM : A.S.OKA, J.

DATE : 17th April 2007

PC :

1. Not on board. Taken on board. Heard advocates appearing for the parties.

2. An objection was raised by the Legal Representatives of the original defendant/ judgment debtor to the execution of the decree by invoking provisions of Section 47 of the Code of Civil Procedure, 1908. The first contention is that the predecessor of the petitioners had become owner of the property by virtue of Section 14 of the Hindu Succession Act, 1956. The second

contention is based on an amendment to the Hindu Succession Act, 1956 brought into force after the decree was passed by the Trial Court.

3. The Executing Court has considered the objections. So far as first objection is concerned, the finding of the Executing Court is that the same was duly considered in the main proceedings. So far as second objection is concerned, the Executing Court has noted that the amendment to the Hindu Succession Act was brought into force during pendency of the appeal and, therefore, the petitioners are not entitled to the benefit of the same.

4. I find no illegality or perversity in the view taken by the learned Executing Court. No case is made out for interference. Writ Petition is dismissed.

(A.S.OKA, J.)